

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TATYANA EVGENIEVNA
DREVALEVA,

Plaintiff,

v.

U.S. DEPARTMENT OF VETERANS
AFFAIRS, et al.,

Defendants.

Case No. 18-cv-03748-JCS

**ORDER DENYING VARIOUS
MOTIONS**

Re: Dkt. Nos. 406, 407, 408

Plaintiff's administrative motion for leave to amend (dkt. 406) is DENIED. A motion for leave to amend under Rule 15 of the Federal Rules of Civil Procedure must be brought as a motion noticed for a hearing under Civil Local Rule 7-2, not an administrative motion under Civil Local Rule 7-11. Moreover, Plaintiff cannot amend by right without bringing such a motion. Rule 15 allows amendment of a complaint by right under the following circumstances:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

Fed. R. Civ. P. 15(a)(1). Plaintiff's complaint was served in August of 2018. *See* dkt. 22. The twenty-one-day deadline after service of the complaint has therefore long expired. And while Defendants only filed and served a responsive pleading—their answer (dkt. 396)—relatively recently, they filed and served a motion to dismiss under Rule 12(b) in October of 2018. Dkt. 34. Since Rule 15(a)(1)(B) sets a deadline of twenty-one days after either service of a responsive pleading or service of a motion under Rule 12, “whichever is earlier,” the deadline here is based


1 on the motion to dismiss, and expired in 2018. Plaintiff therefore must file a noticed motion under
2 Civil Local Rule 7-2 seeking leave under Rule 15(a)(2) or Rule 15(d) if she wishes to amend or
3 supplement her complaint.

4 Plaintiff's motion for a more definite statement (dkt. 408) of Defendants' answer is
5 DENIED. Rule 12(e) of the Federal Rules of Civil Procedure allows a party to "move for a more
6 definite statement of a pleading to which a responsive pleading is allowed but which is so vague or
7 ambiguous that the party cannot reasonably prepare a response." An answer is not "a pleading to
8 which a responsive pleading is allowed"; it is itself a "responsive pleading." Plaintiff need not
9 prepare a response to the answer, and thus cannot bring a motion under Rule 12(e). Regardless,
10 Defendants' answer sufficiently admits or denies each allegation of Plaintiff's complaint.

11 Plaintiff's "Administrative Motion to Clarify Whether or Not [She] Should File a Reply to
12 Defendants' June 04, 2021 Answer" (dkt. 407) seeks legal advice from the Court. The Court
13 cannot provide legal advice to the parties, and a party may not bring a motion seeking such advice.
14 The motion is therefore DENIED.

15 **IT IS SO ORDERED.**

16 Dated: June 14, 2021

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19 JOSEPH C. SPERO
20 Chief Magistrate Judge
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